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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

14 CR 534 (JSR)

5 HARVEY NEWKIRK,

6 Plaintiff.

7 -----x

8 New York, N.Y.

9 April 27, 2015

4:00 p.m.

10 Before:

11 HON. JED S. RAKOFF,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the

16 Southern District of New York

ANDREW ADAMS

17 Assistant United States Attorney

18 LAW OFFICES OF PRIYA CHAUDHRY

Attorneys for Defendant

19 PRIYA CHAUDHRY

20 BETH FARBER

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(Case called)

MR. ADAMS: Yes, good afternoon, your Honor. Andrew Adams and Sarah Paul for the United States.

THE COURT: Good afternoon.

MS. FARBER: Good afternoon, your Honor.

MS. CHAUDHRY: Good afternoon, your Honor. Priya Chaudry for Mr. Newkirk. And with me is Beth Farber. Mr. Newkirk is seated between us.

THE COURT: Good afternoon. This is an initial appearance. Let me first find out from defense counsel whether you have gone over the indictment with your client.

MS. CHAUDHRY: Yes, your Honor, we have. And we waive the reading.

THE COURT: All right. Do you wish a plea of not guilty to be entered at this time?

MS. CHAUDHRY: We do.

THE COURT: A plea of not guilty will be entered.

How long does the government want for completion of discovery?

MR. ADAMS: Your Honor, we have substantially everything ready to hand over today. I'd ask for a week just to scour the file and make sure I have everything.

THE COURT: All right. That's fine. All discovery, then, to be completed by May 4. How long does defense counsel want for the making of any motions?

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1 MS. CHAUDHRY: Your Honor, the government had  
2 previously asked us for a hard drive, which we provided, and I  
3 believe there's approximately 35,000 documents plus some three  
4 hours of recordings. I think we would need a few months to  
5 review that, and then --

6 THE COURT: No, no way. First of all, it will take  
7 you three hours to listen to three hours of recording. When  
8 you say 35,000 documents, you probably mean, what, e-mails and  
9 things like that? What are we talking about?

10 MR. ADAMS: Yes, your Honor. The largest portion will  
11 be e-mails and attachments. It's about 35,000 pages.

12 THE COURT: What is it you want to review those  
13 materials for? You want to see whether your client is -- was a  
14 participant in any of those e-mails?

15 MS. CHAUDHRY: We would like to review them for  
16 several things, to see if he's a participant --

17 THE COURT: Well, let's take it one at a time. Does  
18 the government have an index showing which ones he was a  
19 participant in?

20 MR. ADAMS: Not an index of the individual records,  
21 your Honor. But if I could just describe, a bit, the  
22 discovery?

23 THE COURT: Yes.

24 MR. ADAMS: The largest set of e-mails comes from two  
25 different sources. The first is Mr. Newkirk's work e-mail

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1 account. He's a participant, per se, in all of those records,  
2 either as a sender or recipient. The other set, the largest  
3 set, would be e-mails to accounts belonging to Calvin Darden,  
4 Jr. Mr. Newkirk is either a sender or recipient of many of the  
5 e-mails on those accounts, certainly not all of them. I  
6 wouldn't even say on the majority of them. But they should be  
7 easily searchable for e-mails that were sent by Mr. Newkirk.

8 THE COURT: All right. They're readily searchable?

9 MR. ADAMS: Yes, sir.

10 THE COURT: All right. What else do you want to  
11 review?

12 MS. CHAUDHRY: Well, it's not clear to me what all's  
13 on there, but I know Mr. Darden, Jr., it's a separate defendant  
14 who has pled guilty before court. I'm hoping that some of  
15 those e-mails that the government is giving us are e-mails  
16 about this, or related to this, on which Mr. Newkirk is not,  
17 because it's important to us to see whether the person he  
18 allegedly was conspiring with had his own conspiracy going with  
19 someone else.

20 THE COURT: Okay.

21 MS. CHAUDHRY: We also need to review the ones he's  
22 not on to compare them to see whether there's an overlap of the  
23 storyline or not.

24 THE COURT: Is there any other conspirator involved?  
25 Let me ask the government.

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1 MR. ADAMS: These are the only two people charged,  
2 your Honor.

3 THE COURT: All right. Are you going to be claiming  
4 any nonindicted coconspirators.

5 MR. ADAMS: Not at this time. I don't anticipate.

6 THE COURT: Okay. There you go. What else would you  
7 like to do?

8 MS. CHAUDHRY: Without having seen them, that's all I  
9 can say at this time.

10 THE COURT: All right. I mean, I could understand you  
11 needing a month to take care of that, although, frankly, it  
12 sounds like many of these items will be ones of a few sentences  
13 long that you can review in a matter of seconds. But I'll give  
14 you a month. I'm not going to give you two months.

15 All motions, discovery is to be completed by May 4.  
16 Any motions from the defense need to be filed by June 4. And  
17 we will have a further conference. Let's look at June 8.

18 THE DEPUTY CLERK: June 8, a Monday, you're sitting by  
19 designation in San Francisco.

20 THE COURT: When am I back? On the end of that week?

21 THE DEPUTY CLERK: Yes, you're back the 12th, Friday  
22 the 12th.

23 THE COURT: We'll set it down for June 12.

24 MS. FARBER: Your Honor, I'll be away then.

25 THE COURT: Is either counsel available? If either

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1 counsel's available, we're going June 12.

2 MS. CHAUDHRY: I'm available on June 12.

3 THE COURT: Very good. June 12 at 4:00 p.m. At that  
4 time, if there are motions, they can be dealt with orally.  
5 They will be. If there are any that require a written  
6 response, we'll set a time for it then. Since we're not  
7 holding that conference to the 12th, I will give defense  
8 counsel to June 4. I'll give you an extra week, to June 11, to  
9 file any motions.

10 Also on the 12th, we'll set a trial date. Even if one  
11 defense counsel's not present, be sure that present counsel  
12 knows her trial availability, because the likelihood is  
13 overwhelming that we would try this case no later than the end  
14 of August. But we'll set the exact trial date then.

15 Anything else we need to take up today? I'll exclude  
16 time in a minute, but was bail entered into?

17 MS. CHAUDHRY: It was. We ask that it be continued --  
18 sorry, carried forward from the magistrate court.

19 THE COURT: Yes, that's fine. But what were the  
20 terms?

21 MS. CHAUDHRY: His release is secured by three  
22 signatures and \$100,000 securing a \$500,000 personal property  
23 bond.

24 THE COURT: Travel restrictions?

25 MS. CHAUDHRY: For work purposes to the continental

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1 United States with approval by pretrial.

2 THE COURT: Okay. That's fine. Pursuant to Section  
3 3161 of Title 18, I will exclude time between now and June 12  
4 from calculations under the Speedy Trial Act, finding that such  
5 time is necessary for the completion of discovery and, more  
6 importantly, the review of discovery and the making of any  
7 motions and under those other reasons obvious from the  
8 transcript. The best interest of justice in excluding such  
9 time substantially outweighs the interest of the public and of  
10 the defendant in a speedy trial.

11 Anything else we need to take up today?

12 MR. ADAMS: Nothing for the government.

13 MS. CHAUDHRY: Nothing for the defense.

14 THE COURT: Very good. Thanks so much.

15 (Adjourned)

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